

1 MARTIN A. MUCKLERROY, ESQ.
Nevada Bar No. 009634
2 MUCKLERROY LUNT, LLC
6077 S. Fort Apache, Ste 140
3 Las Vegas, NV 89148
Phone: (702) 907-0097
4 Fax: (702) 938-4065
5 martin@muckleroylunt.com

6 *Attorney for Plaintiff Fullenkamp*

7 [Additional Counsel on Signature Page]

8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 MARK FULLENKAMP, Derivatively on Behalf
of ALLEGIANT TRAVEL CO.,

11 Plaintiff,

12 v.
13

14 MAURICE J. GALLAGHER, JR., JOHN T.
REDMOND, GREGORY ANDERSON,
15 SCOTT SHELDON, ERIC GUST, CHARLES
W. POLLARD, LINDA A. MARVIN, GARY E.
16 ELLMER, and MONTIE R. BREWER,

17 Defendants,

18 and
19

20 ALLEGIANT TRAVEL CO.,

21 Nominal Defendant.

Case No.: 2:18-CV-01864

**AMENDED JOINT STIPULATION
AND PROPOSED ORDER
CONSOLIDATING RELATED
ACTIONS AND APPOINTING
CO-LEAD COUNSEL**

1 CHARLES BLACKBURN, Derivatively and on
2 Behalf of ALLEGIAN TRAVEL COMPANY,

3 Plaintiff,

4 vs.

5 MAURICE J. GALLAGHER, JR., MONTIE R.
6 BREWER, GARY E. ELLMER, LINDA A.
7 MARVIN, CHARLES W. POLLARD, and
8 JOHN T. REDMOND,

9 Defendants,

10 and

11 ALLEGIANT TRAVEL COMPANY,

12 Nominal Defendant.

Case No.: 2:18-cv-1975

1 WHEREAS, on September 26, 2018, Mark Fullenkamp filed a verified shareholder
 2 derivative complaint in this Court, and on July 20, 2018, Charles Blackburn filed a verified
 3 shareholder derivative complaint in the United States District Court for the Central District of
 4 California, which was transferred to this Court on October 10, 2018 (the “Actions”);

5 WHEREAS, the Actions collectively allege claims against defendants Maurice J.
 6 Gallagher, Jr., John T. Redmond, Gregory Anderson, Scott Sheldon, Eric Gust, Charles W.
 7 Pollard, Linda A. Marvin, Gary E. Ellmer, and Montie R. Brewer (the “Individual Defendants”)
 8 and Allegiant Travel Company (“Allegiant” or “Nominal Defendant,” and together with Individual
 9 Defendants, the “Defendants”);

10 WHEREAS, plaintiffs in the Actions (“Plaintiffs”) agree that the Actions contain nearly
 11 identical factual and legal contentions, and the administration of justice would be best served by
 12 consolidating the Actions and appointing Co-Lead Counsel and Liaison Counsel as set forth
 13 herein;

14 WHEREAS, without waiving any rights, arguments or defenses, Defendants agree the
 15 Actions should be consolidated and take no position regarding appointment of Co-Lead Counsel or
 16 Liaison Counsel;

17 WHEREAS, this stipulation is not a waiver of any of the parties’ rights, remedies, claims,
 18 or defenses.

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, and upon approval
 20 and entry by the Court shall be ORDERED, as follows:

21 1. The Actions are hereby consolidated for all purposes, including pretrial
 22 proceedings, trial, and appeal, and are referred to herein as the “Consolidated Action.”

23 2. The file in *Fullenkamp v. Gallagher, et al.*, Case No. 2:18-cv-01864, shall
 24 constitute the Master File for every action in the Consolidated Action. When the document being
 25 filed pertains to all actions, the phrase “This Documents Relates to All Actions” shall be placed on
 26 the cover page. When a pleading applies only to some, not all, of the actions, the document shall

27 AMENDED JOINT STIPULATION AND [PROPOSED] ORDER,
 28 CASE NO. 2:18-CV-01864

list on the cover page the phrase “This Document Relates To:”, the docket number for each individual action to which the document applies, along with the last name of the first-listed plaintiff in said action.

3. Every pleading filed in the Consolidated Action, or in any separate action included herein, shall bear the following caption:

IN RE ALLEGIANT TRAVEL CO. STOCKHOLDER DERIVATIVE LITIGATION
--

Master File No.: 3:18-cv-01864

4. The following law firms are designated Co-Lead Counsel for Plaintiffs in the Consolidated Action:

Bragar Eagel & Squire, P.C.
885 Third Avenue, Suite 3040
New York, New York 10022
Telephone: (212) 308-5858

Glancy Prongay & Murray LLP
712 Fifth Avenue
New York, New York 10019
Telephone: (212) 935-7400

5. Plaintiffs believe that their counsel, Bragar Eagel & Squire, P.C. (“BES”) and Glancy Prongay & Murray LLP (“Glancy”), are qualified to advocate for Plaintiffs. *See* BES firm resume attached hereto as Exhibit A and Glancy firm resume attached hereto as Exhibit B. Defendants take no position on the qualifications or appointment of lead counsel for Plaintiffs.

6. Co-Lead Counsel shall represent Plaintiffs in the prosecution of the Consolidated Action, determine and present to the Court and opposing parties the position of Plaintiffs on all matters arising during pretrial negotiations, delegate and monitor the work performed by Plaintiffs’ attorneys to ensure that there is no duplication of effort or unnecessary expense, coordinate on behalf of the Plaintiffs the initiation and conduct of discovery proceedings, have the authority to negotiate matters with Defendants’ counsel, and perform such other duties as may be incidental to the proper coordination of Plaintiffs’ pretrial activities or authorized by further order of the Court. Defendants’ counsel may rely on all agreements made with either of Co-Lead Counsel, or other

1 duly authorized representative of Co-Lead Counsel, and such agreements shall be binding on all
2 Plaintiffs.

3
4 7. The following law firm is designated as Plaintiffs' Liaison Counsel in this
5 Consolidated Action:

6 Muckleroy Lunt, LLC
7 6077 S. Fort Apache, Suite 140
8 Las Vegas, NV 89148
9 Telephone: (702) 907-0097

10 8. Plaintiffs' Liaison Counsel shall perform all tasks expected of Nevada counsel and
11 shall be primarily responsible for communications between Plaintiffs and the Court and for
12 Plaintiffs' filings with the Court.

13 9. The Parties to this Stipulation agree that it would be duplicative and wasteful of the
14 Court's resources for any Defendant who has been properly served, has agreed to accept service, or
15 who is served in the future to have to respond whether by answer or motion to the individual
16 complaints before a consolidated complaint is filed in the Consolidated Action. Therefore, the
17 Parties to this Stipulation agree that any Defendant who has been properly served, has agreed to
18 accept service, or who is served in the future, need only respond, plead, move, or answer to any
19 consolidated complaint filed in the Consolidated Action or to any other related complaints that are
20 subsequently assigned or transferred to this Court. To the extent that any Defendant now named in
21 any of the existing complaints filed in the Consolidated Action is not named in the consolidated
22 complaint, the claims against such Defendant shall be deemed dismissed without prejudice. Any
23 pleading filed or served in one of the underlying actions shall become part of the Consolidated
24 Action.

25
26
27 AMENDED JOINT STIPULATION AND [PROPOSED] ORDER,
28 CASE NO. 2:18-cv-01864

1 10. Upon entry of an order on this Stipulation, the Parties will promptly meet and
2 confer regarding a schedule for the filing of a consolidated complaint and Defendants' response(s)
3 thereto.

4 11. This Joint Stipulation and Order shall apply to each action arising out of the same
5 transactions and occurrences and asserting direct and/or derivative state law claims filed in this
6 Court or transferred here, and Co-Lead Counsel shall assist the Court by calling to the attention of
7 the Court the filing or transfer of any such action, and Co-Lead Counsel shall assure that counsel
8 therein receive notice of this Stipulation and Order. Unless otherwise ordered, the terms of all
9 orders, rulings, and decisions in the Consolidated Action shall apply to all later stockholder
10 derivative actions instituted herein.

11 12. This Order is without prejudice to the right of any Defendant to raise any and all
12 arguments or defenses concerning the claims raised in the Consolidated Action or the jurisdiction
13 of this Court. By entering into this Stipulation, each Defendant preserves all objections and
14 challenges of any kind, including jurisdictional.

15 13. The parties who have signed this Stipulation consent to service by electronic mail of
16 all foregoing motion papers, such service shall be effective upon transmission, and no such other
17 service shall be required.

1 Dated: December 19, 2018

Respectfully submitted,

2 **MUCKLEROY LUNT, LLC**

By: /s/ Martin A. Muckleroy

3 Martin A. Muckleroy (#009634)

4 6077 S. Fort Apache, Suite 140

Las Vegas, Nevada

5 Telephone: (702) 907-0097

6 Facsimile: (702) 938-4065

Email: martin@muckleroylunt.com

7 *Liaison Counsel for Plaintiffs*

8 **BRAGAR EAGEL & SQUIRE, P.C.**

9 David J. Stone

Todd H. Henderson

10 Melissa A. Fortunato

885 Third Avenue, Suite 3040

11 New York, New York 10022

12 Telephone: (212) 308-5858

Facsimile: (212) 214-0506

13 E-mail: stone@bespc.com

henderson@bespc.com

14 fortunato@bespc.com

15 **GLANCY PRONGAY & MURRAY LLP**

16 Matthew M. Houston

Benjamin I. Sachs-Michaels

17 712 Fifth Avenue

New York, New York 10019

18 Telephone: (212) 935-7400

19 E-mail: mhouston@glancylaw.com

bsachsmichaels@glancylaw.com

20 **GLANCY PRONGAY & MURRAY LLP**

21 Robert V. Prongay

Lesley F. Portnoy

22 1925 Century Park East, Suite 2100

Los Angeles, California 90067

23 Telephone: (310) 201-9150

Facsimile: (310) 210-9160

24 E-mail: rprongay@glancylaw.com

25 lportnoy@glancylaw.com

26 *Co-Lead Counsel for Plaintiffs*

27 AMENDED JOINT STIPULATION AND [PROPOSED] ORDER,
28 CASE NO. 2:18-cv-01864

1 Dated: December 19, 2018

GREENBERG TRAURIG LLP

By: /s/ Jacob D. Bundick

Mark E. Ferrario (SBN 1625)

Jacob D. Bundick (SBN 9772)

Christopher R. Miltenberger (SBN 10153)

10845 Griffith Peak Drive, Suite 600

Las Vegas, NV 89135

Telephone: (702) 792-3773

Facsimile: (702) 792-9002

Email: ferrariom@gtlaw.com

Email: bundickj@gtlaw.com

Email: miltenbergerc@gtlaw.com

Daniel J. Tyukody (*pro hac vice*)

1840 Century Park East, Suite 1900

Los Angeles, CA 90067

Telephone: (310) 586-7723

Email: tyukodyd@gtlaw.com

Counsel for Defendants

13 PURSUANT TO STIPULATION, IT IS SO ORDERED this ____ day of
14 _____, 2018.

17 THE HONORABLE GLORIA M. NAVARRO
18 DISTRICT COURT JUDGE

27 AMENDED JOINT STIPULATION AND [PROPOSED] ORDER,
28 CASE NO. 2:18-cv-01864